

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MARLON D. GUY,

Plaintiff,
v.

MARATHON COUNTY JAIL,

Defendant.

ORDER

21-cv-198-jdp

Pro se plaintiff Marlon D. Guy was formerly incarcerated at the Marathon County jail and is currently incarcerated at Dodge Correctional Institution. Guy says that while he was at the jail, he was given the wrong medication. In a July 22, 2021, order, I stated that Guy's complaint did not state a claim for relief that this court can consider. Dkt. 9. His allegations may have supported a state-law negligence claim, but the court would not have jurisdiction over that claim unless the parties were citizens of different states. And if Guy intended to bring federal claims for a violation of his constitutional rights, he didn't name individuals as defendants or show that the county could be liable for the violation.

I gave Guy until August 11, 2021, to submit an amended complaint that addressed those problems. I also warned Guy that if he didn't submit an amended complaint by that deadline, I would dismiss the case for his failure to state a claim upon which relief may be granted.

It is now past Guy's deadline, and he has not filed an amended complaint or otherwise responded to the court's order. Accordingly, I will dismiss the case and assess Guy a "strike" under 28 U.S.C. § 1915(g). *See Paul v. Marberry*, 658 F.3d 702, 705 (7th Cir. 2011) ("[W]hen . . . the plaintiff is told to amend his . . . complaint and fails to do so, the proper ground of

dismissal is not want of prosecution but failure to state a claim, one of the grounds in section 1915(g) for calling a strike against a prisoner plaintiff.”). If Guy receives three strikes under § 1915(g), he will not be able to proceed in future cases without prepaying the full filing fee unless he is in imminent danger of serious physical injury.

ORDER

IT IS ORDERED that:

1. This case is DISMISSED for plaintiff’s failure to state a claim upon which relief may be granted.
2. The clerk of court is directed to record a “strike” against plaintiff.
3. The clerk of court is directed to enter judgment in favor of defendant and close the case.

Entered September 2, 2021.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge